



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 Fax (540) 574-7878

Physical Address: 4411 Early Road, Harrisonburg, VA

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

April 6, 2017

Julius Morris, Trustee
The Sunnyside Land Trust
P.O. Box 224
Quinque, VA 22965

RE: Julius Morris, Trustee of the Sunnyside Land Trust Consent Order
Barrington Place (Site), Stanardsville, VA
VAR102479

Dear Mr. Morris:

Enclosed is a copy of the fully executed Consent Order for you and Sunnyside Land Trust concerning the Site referenced above. No comments were received during the 30-day public comment period. The Order was signed by the Regional Director on behalf of the Board on April 6, 2017 and is effective from that date.

Please note that the first payment of the civil charge, in the amount of \$1,224.34, is to be sent to the Department by June 10, 2017. Please be sure that the check is payable to the Treasurer of Virginia and is otherwise completed as described in Section D of the Consent Order. Additionally, please note that the dates in the Schedule of Compliance (Attachment A of the Consent Order) begin from the date of the Regional Director's signature.

Thank you for your cooperation in this matter. If you have questions, please contact me at 540-574-7859 or tiffany.severs@deq.virginia.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Severs".

Tiffany R. Severs
Enforcement Specialist Sr.

Enclosure

cc: DEQ
K. Long
Tucker Law



RECEIVED
DEQ - Valley
FEB 10 2017

To: _____
FILE: _____

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
JULIUS MORRIS, TRUSTEE OF THE SUNNYSIDE LAND TRUST
FOR
BARRINGTON PLACE
VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM
REGISTRATION NO. VAR102479**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the State Water Control Board and Julius Morris, Trustee of the Sunnyside Land Trust regarding the Barrington Place subdivision for the purpose of resolving certain violations of the State Water Control Law, the applicable Permit, and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "Construction activity" means any clearing, grading or excavation resulting in land disturbance of equal to or greater than one acre, or disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Discharge" means the discharge of a pollutant.
7. "Discharge of a pollutant" means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. "Facility" or "Site" means the Barrington Place Subdivision, located on Ice House Road, Green County, Virginia, from which discharges of stormwater associated with construction activity occur.
9. "Fill" means replacing portions of surface water with upland, or changing the bottom elevation of surface water for any purpose, by placement of any pollutant or material including but not limited to rock, sand, earth, and man-made materials and debris. 9 VAC 25-210-10.
10. "Fill Material" means any pollutant which replaces portions of surface water with dry land or which changes the bottom elevation of a surface water for any purpose. 9 VAC 25-210-10.
11. "2009 General Permit Regulation" means the General Permit for Discharges of Stormwater from Construction Activities, 9 VAC 25-880-1 et seq., which was effective from July 1, 2009 to June 30, 2014.
12. "2014 General Permit Regulation" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, 9 VAC 25-880-1 et seq., effective July 1, 2014.
13. "Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Va. Code § 62.1-44.15:34.

14. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
15. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
16. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. . . ." 9 VAC 25-870-10.
17. "Pollution" means "such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are 'pollution.'" Va. Code § 62.1-44.3.
18. "Registration Statement" means a registration statement for coverage under the 2009 or 2014 State Permit.
19. "Regulations" means the Virginia Water Protection Permit Program Regulations, 9 VAC 25-210-10 *et seq.*, Virginia Erosion and Sediment Control Regulations, 9 VAC 25-840-10 *et seq.*, and Virginia Stormwater Management Program Regulations, 9 VAC 25-870-10 *et seq.*
20. "2009 State Permit" means the General Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2009 and which expired on June 30, 2014.
21. "2014 State Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2014 and which expires on June 30, 2019.

22. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Va. Code. Article 2.2 (Va. Code §§ 62.1-44.15:20 through 62.1-44.15:23) of the State Water Control Law addresses the Virginia Water Resources and Wetlands Protection Program.
23. "State Waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3 and 9 VAC 25-210-10.
24. "Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage. Va. Code § 62.1-44.15:24.
25. "Stormwater management plan" means a document or series of documents containing material describing methods for complying with the requirements of a VSMP or the VSMP Regulations. 9 VAC 25-870-10.
26. "Surface water" means all state waters that are not ground waters as defined in Va. Code § 62.1-255.
27. "SWPPP" means Stormwater Pollution Prevention Plan, which is a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under the VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. 9 VAC 25-870-10.
28. "Trustee" means Julius Morris, Trustee of the Sunnyside Land Trust. Trustee is a "person" within the meaning of Va. Code § 62.1-44.3.
29. "Virginia Stormwater Management Act" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Va. Code.
30. "Va. Code" means the Code of Virginia (1950), as amended.
31. "VAC" means the Virginia Administrative Code.
32. "Virginia Erosion and Sediment Control Program authority" or "VЕСP authority" means an authority approved by the board to operate a Virginia Erosion and Sediment Control Program. An authority may include a state entity, including the department; a federal entity; a district, county, city, or town; or for linear projects subject to annual standards and specifications, electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 of the Code of Virginia.

33. "VPDES" means Virginia Pollutant Discharge Elimination System.
34. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
35. "VSMP" means the Virginia Stormwater Management Program, which is a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations. Va. Code § 62.1-44.15:24.
36. "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a VSMP or, until such approval is given, the Department. An authority may include a locality; state entity, including the Department; federal entity; or for linear projects subject annual standards and specifications in accordance with subsection B of § 62.1-44.15-31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102. Va. Code § 62.1-44.15:24.
37. "VSMP Regulations" means the Virginia Stormwater Management Program (VSMP) Regulations, 9 VAC 25-870-10 et seq.
38. "VWP permit" means an individual or general permit issued by the board under § 62.1-44.15:20 of the Code of Virginia that authorizes activities otherwise unlawful under § 62.1-44.5 of the Code of Virginia or otherwise serves as the Commonwealth of Virginia's § 401 certification.
39. "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. 9 VAC 25-210-10.

SECTION C: Findings of Fact and Conclusions of Law

1. Julius Morris, Trustee of the Sunnyside Land Trust owns the Barrington Place Subdivision located in Greene County, Virginia, which discharges stormwater associated with construction activity.
2. Greene County is a VSMP authority approved by the Board to operate a VSMP on August 1, 2014.

3. On October 5, 2010, coverage was granted under the 2009 State Permit for discharge of stormwater from construction activities from the Barrington Place Subdivision. The Site was assigned registration number VAR102479.
4. From October 5, 2010 to June 30, 2014, the 2009 State Permit allowed stormwater associated with construction activities to be discharged from the Barrington Place Subdivision to an unnamed tributary to Stanardsville Run, a state water, in compliance with the terms and conditions of the 2009 State Permit. Unnamed tributary to Stanardsville Run is located in the Rivanna River Basin. Rivanna River Basin is listed in DEQ's 305(b) report as impaired for benthic (sediment) and bacteria.
5. On October 10, 2014, coverage was granted to Trustee under the 2014 State Permit for discharges of stormwater from construction activities from the Barrington Place Subdivision. The Site was assigned registration number VAR102479.
6. During DEQ Site inspections on April 8, 2014 and June 25, 2014, DEQ staff documented that neither the SWPPP nor a copy of the 2009 State Permit, Registration Statement, and 2009 State Permit coverage letter from the Department were retained at the Site or other accessible location.

Section II(B)(2) of the 2009 State Permit required the SWPPP to be retained, along with a copy of the 2009 State Permit, Registration Statement, and 2009 State Permit coverage letter from the Department, at the construction site or other location easily accessible during normal business hours from the date of commencement of construction activity to the date of final stabilization.

9 VAC 25-870-54(G) requires that the SWPPP be maintained at a central location onsite or that notice of the SWPPP's location be posted near the main entrance of the construction site.

7. During DEQ Site inspections and record reviews on April 8, 2014 and June 25, 2014, DEQ staff was unable to find documentation that qualified personnel conducted inspections between April 8, 2014 and June 25, 2014. The SWPPP included no reports summarizing inspections, corrective actions, and other information required in 2009 State Permit Section II(D)(4).

Section II(D)(4) of the 2009 State Permit required qualified personnel to conduct inspections: (i) at least every seven calendar days or (ii) at least once every 14 calendar days and within 48 hours following any runoff producing storm event. Where areas have been temporarily stabilized or runoff is unlikely due to winter conditions (e.g., the site is covered with snow or ice, or frozen ground exists) such inspections shall be conducted at least once every month. A report summarizing the scope of the inspection, names and qualifications of personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the SWPPP including corrective action

required, and actions taken in accordance with Section II(D)(4)(d) of the 2009 State Permit must be made and retained as part of the SWPPP.

8. During DEQ Site inspections on April 8, 2014 and June 25, 2014, DEQ staff observed that:
 - a. Both sediment basins on Site were not installed or maintained per the specifications on the approved erosion and sediment control plan. The outlet pipe from sediment basin located at the rear of the Site did not have properly maintained or installed outlet protection; the outlet protection was full of sediment and not functioning to dissipate velocity. Neither sediment basin had a trash rack installed on the outlet structure. On April 8, 2014, the sediment basin at the rear of the Site was full of sediment and had no wet or dry storage capacity. On June 25, 2014, the sediment basin at the front of the Site was full of sediment and unstabilized, and the sediment basin at the rear of the Site did not have an emergency spillway installed.
 - b. Stormwater conveyance channels did not have matting and check dams installed, as required in the approved erosion and sediment control plan, and were not stabilized.
 - c. Areas on Site dormant for greater than 14 days were bare, eroding, and did not have stabilization measures applied. Soil stockpiles were not stabilized, and sediment trapping measures were not present.
 - d. Silt fence along the project was in disrepair and was down in several areas.

Section II(D)(2) of the 2009 State Permit required that all control measures required by the erosion and sediment control plan must be designed, installed, and maintained in accordance with good engineering practices and the minimum standards of the Virginia Erosion and Sediment Control Law (Va. Code §§ 62.1-44.15:51 to 62.1-44.15:66) and regulations (9 VAC 25-840).

9 VAC 25-870-54(B) requires an erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations to be designed and implemented during construction activities.

9 VAC 25-840-60(A) of the Erosion and Sediment Control Regulations requires all erosion and sediment control structures and systems to be maintained, inspected and repaired as needed to ensure continued performance of their intended function.

9 VAC 25-870-95(L) requires land-disturbing activities to comply with the Virginia Erosion and Sediment Control Law and attendant regulations.

9 VAC 25-840-40(1) requires temporary soil stabilization to be applied within seven days to denuded areas that will remain dormant for longer than 14 days and permanent stabilization to be applied to areas to be left dormant for more than one year.

9 VAC 25-840-40(2) requires soil stock piles and borrow areas to be stabilized or protected with sediment trapping measures during construction of the project.

9 VAC 25-840-40(3) requires permanent vegetative cover to be established on denuded areas not otherwise permanently stabilized.

9 VAC 25-840-40(11) requires that before newly constructed stormwater conveyance channels are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel.

9 VAC 25-840-40(19)(g) requires that energy dissipaters be placed at the outfall of all detention facilities as necessary to provide a stabilized transition from the facility to the receiving channel.

9. During DEQ Site inspections on April 8, 2014 and June 25, 2014, DEQ staff documented that discharges of stormwater from the Site caused substantial sediment deposition (pollutant) into 1400 linear feet of the channel of the unnamed tributary to Stanardsville Run resulting in impacts to state waters. Sediment from the Site and has also filled approximately ¼ acre of paulestrine emergent wetland. Offsite deposits of sediment had not been removed.

Va. Code § 62.1-44.15:20(A) states: "Except in compliance with an individual or general Virginia Water Protection Permit issued in accordance with this article, it shall be unlawful to: Excavate in a wetland; ...[or] conduct the following in a wetland: New activities to cause draining that significantly alters or degrades existing wetland acreage or functions; Filling or dumping; Permanent flooding or impounding; or New activities that cause significant alteration or degradation of existing wetland acreage or functions; or Alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses unless authorized by a certificate issued by the Board."

9 VAC 25-210-50(A) states: "Except in compliance with a VWP permit, unless the activity is otherwise exempted or excluded, no person shall dredge, fill or discharge any pollutant into, or adjacent to surface waters, withdraw surface water, otherwise alter the physical, chemical or biological properties of surface waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses..."

Section II (D)(2)(b)(3) of the 2009 State Permit states: "If sediment escapes the construction site, off-site accumulations of sediment must be removed as soon as practicable to minimize off-site impacts. If approval by a VESCP authority is necessary, control measures shall be implemented to minimize pollutants in stormwater discharges until such approvals can be obtained."

10. During DEQ Site inspections on April 8, 2014 and June 25, 2014, DEQ staff documented that litter and debris are not contained and are being stored in an eroded area (gully) on

the Site. On June 25, 2014, DEQ staff documented pollutants (oil) on the shoulder and on the paved roadway.

Section II(D)(2)(b)(4-5) of the 2009 State Permit required that construction debris, construction chemicals, and litter exposed to stormwater be prevented from becoming a pollutant source in stormwater discharges and that the construction site be policed daily to control litter.

11. On May 1, 2014 VRO issued NOV No. 14-4-VRO-001 to Trustee for the violations documented during the April 8, 2014 inspection.
12. On May 12, 2014, Trustee responded to the Notice of Violation by scheduling a meeting to discuss a schedule of corrective actions to address the violations.
13. On May 16, 2014, Department staff met with representatives of Trustee to discuss the violations, including Trustee's written response.
14. On January 20, 2015, DEQ staff performed a stormwater compliance inspection at the Site and observed that Trustee has returned to compliance with reference to violations listed in paragraphs C(8)(b-d), C(9), and C(10). Trustee has also partially returned to compliance with reference to violations listed in paragraph C(8)(a) by removing sediment from the basin located at the rear of the Site.
15. Based on the results of the April 8, 2014 and June 25, 2014 inspections, the Board concludes that Trustee violated Va. Code §§ 62.1-44.5 and -44.15:20, 9 VAC 25-870-310(A), 9 VAC 25-210-50, 9 VAC 25-840-40, 9 VAC 25-840-60(A), and 9 VAC 25-870-95(L), 9 VAC 25-870-54, and the conditions of Sections II(B)(2), II(D)(2), and II(D)(4) of the 2009 State Permit, as described in paragraphs C(6) through C(10) of this Order.
16. In order for Trustee to complete its return to compliance, DEQ staff and Trustee have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, the Board orders Trustee and Trustee agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$14,691.86 in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:
 - a. Construction General Permit Penalty: \$6,405.65

b. Virginia Water Protection Program Penalty: \$8,286.21

Due Date	Amount
June 10, 2017	\$1,224.34 or balance
September 10, 2017	\$1,224.32 or balance
December 10, 2017	\$1,224.32 or balance
March 10, 2018	\$1,224.32 or balance
June 10, 2018	\$1,224.32 or balance
September 10, 2018	\$1,224.32 or balance
December 10, 2018	\$1,224.32 or balance
March 10, 2019	\$1,224.32 or balance
June 10, 2019	\$1,224.32 or balance
September 10, 2019	\$1,224.32 or balance
December 10, 2019	\$1,224.32 or balance
March 10, 2020	\$1,224.32 or balance

3. If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Trustee. Within 15 days of receipt of such letter, Trustee shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.
4. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218
5. Trustee shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Stormwater Management Fund for the Construction General Permit Penalty set forth in Section (D)(2)(a) above and the Virginia Environmental Emergency Response Fund (VEERF) for the Virginia Water Protection Program Penalty set forth in Section (D)(2)(b) above. If the Department has to refer collection of moneys due under this Order to the Department of Law, Trustee shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Trustee for good cause shown by Trustee or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 et seq., after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 14-4-VRO-001 dated May 1, 2014. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Trustee admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Trustee consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Trustee declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Trustee to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Trustee shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Trustee shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Trustee shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Trustee. Nevertheless, Trustee agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Trustee has completed all of the requirements of the Order;
 - b. Trustee petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Trustee.

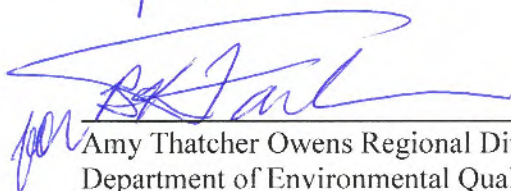
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Trustee from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Trustee and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Trustee certifies that he is a responsible officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Trustee to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Trustee.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Trustee voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 6th day of April, 2017.


per Amy Thatcher Owens
Amy Thatcher Owens Regional Director
Department of Environmental Quality

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Consent Order

Julius Morris, Trustee of the Sunnyside Land Trust; VPDES Permit No. VAR102479

Page 14 of 15

Julius Morris, Trustee of the Sunnyside Land Trust voluntarily agrees to the issuance of this Order.

Date: 02/06/17 By: [Signature], Trustee
Julius Morris Trustee
Sunnyside Land Trust

Commonwealth of Virginia

City/County of Albemarle

The foregoing document was signed and acknowledged before me this 6 day of February, 2017, by Julius Morris who is Trustee of Sunnyside Land Trust, on behalf of the trust.

[Signature]
Notary Public

7679070

Registration No.

My commission expires: 04/30/2020

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. SWPPP

- a. Within 30 days of the effective date of the Order, Trustee shall prepare a revised SWPPP in accordance with the requirements of Part II of the 2014 State Permit and shall submit the SWPPP to DEQ for its review and approval. The SWPPP shall include additional measures that will be taken onsite to address the TMDL WLA for sediment.
- b. Trustee shall respond to any DEQ comments regarding its SWPPP within 30 days from the date of the DEQ comments.
- c. During the term of this Order, should any amendment to the SWPPP be required under 2014 State Permit Part II(B), Trustee shall submit such amendment to DEQ within 30 days of the date of the signed revision for review and approval.
- d. Trustee shall respond to any DEQ comments regarding any amended SWPPP within 30 days from the date of the DEQ comments.
- e. Upon DEQ approval Trustee shall immediately implement the approved SWPPP and any approved amended SWPPP.
- f. Trustee shall comply with the provisions of the 2014 State Permit Part II(C) and (D) and 9 VAC 25-870-54(G) regarding retention of the SWPPP and 2014 State Permit coverage letter from the Department, at the construction Site or other easily accessible location.

2. Inspections, Recordkeeping and Reporting

- a. Trustee shall comply with the provisions of Parts I(B)(4) and II(F) of the 2014 State Permit with respect to conducting Site inspections and making and retaining inspection reports. Trustee shall submit to DEQ a copy of the inspection reports for each month by the 10th day of the following month.

3. DEQ Contact

Unless otherwise specified in this Order, Trustee shall submit all requirements of Appendix A of this Order to:

Tiffany Severs, Enforcement Specialist Senior
Valley Regional Office
PO Box 3000
Harrisonburg, Virginia 22801
540-574-7859, 540-574-7878
tiffany.severs@deq.virginia.gov